

# KPDES



KENTUCKY POLLUTANT  
DISCHARGE ELIMINATION  
SYSTEM

# PERMIT

PERMIT NO.: KYR000000

AI NO.: 35050

**AUTHORIZATION TO DISCHARGE UNDER THE  
KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM**

**Pursuant to Authority in KRS 224,**

The discharge of stormwater runoff associated with industrial activities that are not excluded from coverage in accordance with criteria of Section 4.3 and have met the NOI requirements of Section 5 of this permit.

**is authorized from a facilities located**

Within any of the 120 counties of the Commonwealth of Kentucky

**to receiving waters named**

Those water bodies of the Commonwealth that comprise the Mississippi and Ohio River basins and sub-basins within the political and geographic boundaries of Kentucky

**in accordance with effluent limitations, monitoring requirements and other conditions set forth in this permit.**

This permit shall become effective on June 1, 2013.

This permit and the authorization to discharge shall expire at midnight, May 31, 2018.

May 1, 2013

**Date Signed**

A handwritten signature in black ink, appearing to read 'Sandra L. Gruzesky', located above the printed name.

**Sandra L. Gruzesky, Director**

**Division of Water**

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
Division of Water, 200 Fair Oaks Lane, Frankfort, Kentucky 40601**

**THIS KPDES PERMIT CONSISTS OF THE FOLLOWING SECTIONS.**

**1. EFFLUENT MONITORING REQUIREMENTS ..... 5**

1.1. Effluent Monitoring Requirements ..... 5

1.2. Standard Effluent Requirements ..... 5

**2. NON-NUMERIC REQUIREMENTS ..... 7**

2.1. Control Measures ..... 7

2.2. Minimize Exposure ..... 7

2.3. Good Housekeeping ..... 8

2.4. Maintenance ..... 8

2.5. Spill Prevention and Response Procedures ..... 8

2.6. Management of Runoff and Run-on ..... 8

2.7. Employee Training ..... 8

**3. STORMWATER POLLUTION PREVENTION PLAN (SWPPP) ..... 10**

3.1. Stormwater Pollution Prevention Team ..... 10

3.2. Site Description ..... 10

3.3. Summary of Potential Pollutant Sources ..... 11

3.4. Description of Control Measures ..... 11

3.5. Schedules and Procedures ..... 12

3.6. Additional Documentation Requirements ..... 12

3.7. Signature Requirements ..... 12

3.8. Required Modifications ..... 12

3.9. SWPPP Availability ..... 12

3.10. Inspections ..... 13

3.11. Corrective Actions ..... 13

**4. ADDITIONAL REQUIREMENTS ..... 15**

4.1. Non-Stormwater Discharges ..... 15

4.2. New or Expanded Discharges ..... 15

4.3. Summary of Exclusions ..... 17

4.4. Schedule of Compliance ..... 17

4.5. Other Permits ..... 17

4.6. Sufficiently Sensitive Analytical Methods ..... 17

4.7. Antidegradation ..... 17

4.8. Additional Conditions Applicable to Existing Manufacturing, Commercial, Mining and  
Silvicultural Discharges ..... 17

4.9. Reporting of Monitoring Results ..... 18

4.10. Reopener Clause ..... 18

4.11.	Administrative Continuation.....	18
4.12.	Outfall Signage .....	18
4.13.	Discharge and Monitoring Point Accessibility .....	18
<b>5.</b>	<b>NOI REQUIREMENTS AND CONDITIONAL EXCLUSION FOR NO EXPOSURE.....</b>	<b>20</b>
5.1.	Notice of Intent (NOI) .....	20
5.2.	Conditional Exclusion for No Exposure .....	20
<b>6.</b>	<b>STANDARD CONDITIONS.....</b>	<b>22</b>
6.1.	Duty to Comply .....	22
6.2.	Duty to Reapply .....	22
6.3.	Need to Halt or Reduce Activity Not a Defense.....	22
6.4.	Duty to Mitigate.....	22
6.5.	Proper Operation and Maintenance .....	22
6.6.	Permit Actions .....	22
6.7.	Property Rights .....	22
6.8.	Duty to Provide Information.....	22
6.9.	Inspection and Entry .....	22
6.10.	Monitoring and Records .....	23
6.11.	Signatory Requirement .....	23
6.12.	Reporting Requirements .....	23
6.13.	Bypass.....	25

# **SECTION 1**

## **EFFLUENT MONITORING REQUIREMENTS**

## 1. EFFLUENT MONITORING REQUIREMENTS

### 1.1. Effluent Monitoring Requirements

This section of the permit establishes the effluent monitoring requirements that apply to all point source discharges of stormwater runoff associated with industrial activity and non-stormwater discharges as listed in Section 4.1. These monitoring requirements are presented in the following table and become effective on: (1) the effective date of coverage for facilities newly authorized by this permit and (2) the effective date of this permit for those facilities that received authorization prior to September 30, 2007.

Effluent Monitoring Requirements							
Effluent Characteristic	Units	Minimum	Monthly Average	Daily Maximum	Maximum	Frequency	Sample Type
Flow	MGD	N/A	Report	Report	N/A	2/Year	Instantaneous
TSS	mg/l	N/A	Report	Report	N/A	2/Year	Grab
Oil & Grease	mg/l	N/A	Report	Report	N/A	2/Year	Grab
pH	Standard Units	Report	N/A	N/A	Report	2/Year	Grab

The abbreviation N/A in the preceding table means Not Applicable.

### 1.2. Standard Effluent Requirements

The discharges to waters of the Commonwealth shall not produce floating solids, visible foam or a visible sheen on the surface of the receiving waters.

Samples and measurements taken in accordance with the requirements specified in Section 1 shall be representative of the volume and nature of the monitored discharge and shall be taken at nearest accessible point after final treatment, but prior to actual discharge to or mixing with the receiving waters or wastestreams from other outfalls.

**SECTION 2**  
**NON-NUMERIC EFFLUENT REQUIREMENTS**

## 2. NON-NUMERIC REQUIREMENTS

This section of the permit establishes the non-numeric requirements that are applicable to exposed areas associated with industrial activity for all facilities authorized to discharge by this permit. The non-numeric requirements should “minimize” the discharge of pollutants resulting from precipitation events. EPA’s 2008 Multi-Sector General Permit (MSGP) defines the term “minimize” as “to reduce and/or eliminate to the extent achievable using control measures, including BMPs, that are technologically available and economically practicable and achievable in light of best industry practice.” These requirements become effective on the effective date of coverage for facilities newly authorized by this permit. Those facilities that received authorization prior to the effective date of this permit shall, within 180 days of the date of this permit, update their existing Stormwater Pollution Prevent Plan (SWPPP) to reflect any modifications required by this section.

### 2.1. Control Measures

The operator shall select, design, install, and implement control measures and best management practices (BMPs) that consider the following:

- 1) Prevention of stormwater contact with materials that may contaminate the stormwater;
- 2) Use of control measures in combination;
- 3) Assess pollutant types and quantity and their potential impact on water quality;
- 4) Minimizing impervious surfaces;
- 5) Optimizing onsite infiltration of runoff;
- 6) Use of vegetated swales and natural depressions to attenuate flows;
- 7) Conservation and/or restoration of riparian buffers; and
- 8) Use of treatment interceptors

The candidate control measures and BMPs shall be in accordance with good engineering practices and manufacturers’ specifications. The operator shall provide justification and documentation of rationale for any deviation from the manufacturers’ specification in the SWPPP.

### 2.2. Minimize Exposure

The operator shall minimize the exposure of manufacturing, processing, and material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations) to rain, snow, snowmelt, and runoff. In minimizing exposure, the operator should consider the following:

- 1) Locating industrial materials and activities inside or protecting them with storm resistant coverings;
- 2) The use of specific control measures to prevent runoff of contaminated flows and divert run-on away from these areas (e.g. curbing, berms, and grading);
- 3) Locating raw materials, intermediate products, final products, wastes, etc. in areas where leaks or spills are contained;
- 4) Maintaining and storing equipment and vehicles indoors when feasible otherwise drain fluids and use drip pans and absorbents;
- 5) Conducting activities such that leaks or spills do not enter the stormwater drainage system;
- 6) Promptly containing and cleaning up leaks and spills using dry methods;
- 7) The strategic location of spill/overflow protection equipment for immediate accessibility;
- 8) Conducting equipment and vehicle cleaning operations such that overspray is captured and runoff or run-on are prevented (e.g. indoors, under cover or in bermed areas);
- 9) Minimizing impervious areas to prevent excessive runoff; and
- 10) All washwater should drain to a proper collection system, not the stormwater drainage system. The discharge of vehicle and equipment washwater, including tank cleaning operations, is not authorized by this permit. These wastewaters must be discharged to a sanitary sewer in accordance with applicable industrial pretreatment requirements, or disposed of otherwise in accordance with applicable law. The discharge of vehicle and equipment washwaters to a water

of the Commonwealth requires the operator to obtain an individual KPDES permit, or appropriate alternate KPDES general permit for the entire facility as stated in the eligibility requirements of this permit;

- 11) Implementing other adequately protective alternate practices.

### **2.3. Good Housekeeping**

The operator shall keep all exposed areas clean and well maintained, free of waste, garbage, and floatable debris and shall minimize the generation of dust and off-site tracking of raw, final, or waste materials.

### **2.4. Maintenance**

The operator shall regularly inspect, test, maintain, and repair all equipment and systems to minimize the potential for leaks, spills, and other releases of pollutants. All control measures, structural and non-structural, shall be diligently maintained in effective operating condition. Any defective control measure shall be repaired or replaced as expeditiously as practicable.

### **2.5. Spill Prevention and Response Procedures**

The operator shall minimize the potential for leaks, spills and other releases and develop plans for effective response to such spills. At a minimum, operator shall implement the following:

- 1) Procedures for plainly labeling containers (e.g., "Used Oil", "Spent Solvents", "Fertilizers and Pesticides" etc.) to encourage proper handling and facilitate rapid response if spills or leaks occur;
- 2) Preventative measures such as barriers between material storage and traffic areas, secondary containment provisions, and procedures for material storage and handling;
- 3) Procedures for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases. Employees who may cause, detect, or respond to a spill or leak must be trained in these procedures and have necessary spill response equipment available. If possible, one of these individuals should be a member of your Stormwater Pollution Prevention Team; and
- 4) Procedures for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies, and contact information shall be kept in locations that are readily accessible and available.

### **2.6. Management of Runoff and Run-on**

The operator shall reduce stormwater runoff and run-on to minimize the discharge of pollutants. Structural and non-structural control measures such as velocity dissipaters, diversion, infiltration, reuse, and/or containment shall be used to reduce the discharge of pollutants. Salt stockpiles shall be enclosed or covered and appropriate measures to minimize exposure during transfer shall be implemented.

### **2.7. Employee Training**

The operator shall train all employees who work in areas where industrial materials or activities are exposed to stormwater, including all members of your Stormwater Pollution Prevention Team, inspectors, maintenance personnel, etc. Training shall address the specific control measures used to achieve the effluent requirements, monitoring, inspection, planning, reporting, and documentation requirements in other parts of this permit.



**SECTION 3**  
**STORMWATER POLLUTION PREVENTION PLAN**  
**(SWPPP)**

### **3. STORMWATER POLLUTION PREVENTION PLAN (SWPPP).**

The operator of a facility authorized to discharge stormwater runoff by this general permit shall develop and implement a Stormwater Pollution Prevent Plan (SWPPP) for the control and management of stormwater runoff from exposed areas associated with industrial activity. The SWPPP shall document the operator's selection, design, installation, and maintenance of control measures and BMPs that will be used to meet the effluent requirements of Section 2 of this permit. In addition the operator shall document in the SWPPP the type and frequency of inspections and monitoring, and recordkeeping and reporting procedures. The SWPPP shall include at a minimum the following sections:

1. Stormwater Pollution Prevention Team;
2. Site description;
3. Summary of potential pollutant sources;
4. Description of control measures;
5. Schedules and procedures;
6. Additional Documentation Requirements; and
7. Signature requirements.

Where the SWPPP refers to procedures in other facility documents, such as a Spill Prevention Control and Countermeasure (SPCC) Plan, Groundwater Protection Plan (GPP), etc., copies of the relevant portions of those documents must be kept with the SWPPP.

#### **3.1. Stormwater Pollution Prevention Team**

The SWPPP shall identify the staff members (by name or title) that comprise the facility's Stormwater Pollution Prevention Team as well as their individual responsibilities. The Stormwater Pollution Prevention Team is responsible for assisting the facility manager in developing and revising the facility's SWPPP as well as conducting inspections, maintaining control measures, and taking corrective actions where required. Each member of the Stormwater Pollution Prevention Team must have ready access to either an electronic or paper copy of this permit and the SWPPP. Members of the Stormwater Pollution Prevention Team must be knowledgeable and skilled in assessing conditions at the facility that could impact stormwater quality and assessing the effectiveness of controls measures, and other site management practices chosen to control the quality of the stormwater discharge.

#### **3.2. Site Description**

In this section of the SWPPP the operator shall provide a detailed description of activities undertaken at the facility, a general location map with enough detail to identify the location of the facility and all receiving waters, and a detailed site map that contains the following information:

1. The size of the property in acres;
2. The location and extent of significant structures and impervious surfaces;
3. Directions of stormwater flow (use arrows);
4. Locations of all existing structural control measures;
5. Locations of all receiving waters in the immediate vicinity of your facility;
6. Locations of all stormwater conveyances including ditches, pipes, and swales;
7. Locations of potential pollutant sources;
8. Locations where significant spills or leaks have occurred within the 3 most recent consecutive years;
9. Locations of all stormwater monitoring points;
10. Locations of stormwater inlets and outfalls, with a unique identification code for each outfall (e.g., Outfall No. 001, No.002, etc);
11. Municipal separate storm sewer systems(MS4), where your stormwater discharges to the MS4;
12. Locations and descriptions of all non-stormwater discharges;
13. Locations and sources of run-on to your site from adjacent property (that may contain significant quantities of pollutants); and

14. Locations of the following activities where such activities are exposed to precipitation:
  - a. fueling stations;
  - b. vehicle and equipment maintenance and/or cleaning areas;
  - c. loading/unloading areas;
  - d. locations used for the treatment, storage, or disposal of wastes;
  - e. liquid storage tanks;
  - f. processing and storage areas;
  - g. immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility;
  - h. transfer areas for substances in bulk; and
  - i. machinery;

### **3.3. Summary of Potential Pollutant Sources**

The operator shall describe areas at the facility where industrial materials or activities are exposed to stormwater and from which allowable non-stormwater discharges are released. Industrial materials or activities include, but are not limited to: material handling equipment or activities, industrial machinery, raw materials, industrial production and processes, and intermediate products, by-products, final products, and waste products. Material handling activities include, but are not limited to: the storage, loading and unloading, transportation, disposal, or conveyance of any raw material, intermediate product, final product or waste product. For each area identified, the summary must include:

1. A list of the industrial activities exposed to stormwater (e.g., material storage, equipment fueling, maintenance, and cleaning, cutting steel beams).
2. A list of the pollutant(s) or pollutant constituents (e.g., crankcase oil, zinc, sulfuric acid, and cleaning solvents) associated with each identified activity. The pollutant list must include all significant materials that have been handled, treated, stored, or disposed, and that have been exposed to stormwater in the 3 years prior to the preparation date or last date of amendment of the SWPPP.
3. Description of where potential spills and leaks could occur that may possibly contribute pollutants to stormwater discharges, and the corresponding outfall(s) that would be affected by such spills and leaks. The operator shall document all significant spills and leaks of oil or toxic or hazardous pollutants that actually occurred at exposed areas, or that drained to a stormwater conveyance in the 3 years prior to the preparation date or last date of amendment of the SWPPP.
4. Description of the operator's evaluation of the facility for the presence of non-stormwater discharges and that all unauthorized discharges have been eliminated. Such documentation of your evaluation must include: (1) the date of the evaluation, (2) a description of the evaluation criteria used; (3) a list of the outfalls or onsite drainage points that were directly observed during the evaluation, (4) the different types of non-stormwater discharges and source locations; and (5) actions taken, such as a list of control measures used to eliminate unauthorized discharges, if any were identified.
5. The location of any storage piles containing salt used for deicing or other commercial or industrial purposes.
6. A summarization of all stormwater discharge sampling data collected at your facility during the previous permit term.

### **3.4. Description of Control Measures**

The operator shall document the location and type of control measures installed and implemented at the site. This documentation must describe how the control measures at the site address both the pollutant

sources identified Section 3.3 and any stormwater run-on that commingles with any discharges covered under this permit.

### **3.5. Schedules and Procedures**

The SWPPP shall include: (1) A schedule or procedure for regular pickup and disposal of waste materials, along with routine inspections for leaks and conditions of drums, tanks and containers, (2) preventative maintenance procedures, including regular inspections, testing, maintenance, and repair of all industrial equipment and systems, and control measures, to avoid situations that may result in leaks, spills, and other releases, and any back-up practices in place should a runoff event occur while a control measure is off-line, (3) procedures for preventing and responding to spills and leaks, and (4) a schedule for all necessary employee training.

### **3.6. Additional Documentation Requirements**

The following documents shall be retained as addendums to the SWPPP to form a complete and up-to-date record and demonstration of full compliance with the conditions of this permit:

1. A copy of the NOI-KYR00 submitted to KDOW along with any correspondence specific to coverage under this permit;
2. A copy of the coverage letter issued by KDOW;
3. A copy of this permit (electronic or paper);
4. The daily precipitation log
5. Incident Reports - These reports shall provide descriptions and dates of significant spills, leaks, or other releases that resulted in discharges of pollutants to waters of the Commonwealth, through stormwater or otherwise; the circumstances leading to the release and actions taken in response to the release; and measures taken to prevent the recurrence of such releases;
6. Employee Training Records – Including dates, names of employees, and subject matter;
7. Control Measure Maintenance and Repairs Logs – Including date(s) of regular maintenance, date(s) of discovery of areas in need of repair/replacement, and for repairs, date(s) that the control measure(s) returned to full function, and the justification for any extended maintenance/repair schedules;
8. Inspection reports required in accordance with Section 3.10;
9. Corrective Reports - Descriptions of any corrective actions taken at the site, including the triggering event and dates when problems were discovered and modifications implemented;

### **3.7. Signature Requirements**

The SWPPP shall be signed and certified in accordance with the signatory requirements in Section 6.11.

### **3.8. Required Modifications**

The SWPPP shall be modified whenever necessary to address any corrective action taken in accordance with the requirements of Section 3.11. Changes to the SWPPP document must be made in accordance with the corrective action deadlines in Section 3.11, and must be signed and dated in accordance with Section 6.11.

### **3.9. SWPPP Availability**

The member of the Stormwater Pollution Prevention Team who has day-to-day operational control over the plan's implementation shall retain a copy of the most recent up-to-date SWPPP at a location that permits immediate access by any member of the Stormwater Pollution Prevention Team. The SWPPP and all required supportive documentation (See Section 3.6) shall be made immediately available upon request to KDOW or its authorized representative, EPA and other federal agencies or their authorized representatives, local government, or MS4 operator for review and copying during an on-site inspection.

### **3.10. Inspections**

The Stormwater Pollution Prevention Team shall conduct regularly scheduled inspections of the facility to visually determine the effectiveness of the control measures and BMPs, to identify maintenance and repair needs, and to identify any potential or actual permit violations. The operator shall include in the SWPPP a schedule for conducting inspections sufficient to ensure compliance with the requirements of this permit, but not less than quarterly. In addition to the regularly scheduled inspections the Stormwater Pollution Prevention Team shall conduct an annual site assessment and inspections in response to storm events in excess of a 2-year, 24-hour event to verify the stability of the installed control measures and BMPs.

The Stormwater Pollution Prevention Team shall prepare for each inspection conducted by the team or a member of the team a report that documents the following information:

1. The inspection date and time;
2. The type of inspection (i.e. scheduled or in response to a precipitation event in excess of a 2-year, 24-hour event)
3. The name(s) and signature(s) of the inspector(s);
4. Weather information and a description of any discharges occurring at the time of the inspection;
5. Any previously unidentified discharges of pollutants from the site;
6. Any control measures needing maintenance or repairs;
7. Any failed control measures that need replacement;
8. Any additional control measures needed to comply with the permit requirements; and
9. Any other corrective action required as a result of the inspection.

The inspection reports shall be maintained as an amendment to the SWPPP and made available in accordance with the SWPPP availability requirements of Section 3.9.

### **3.11. Corrective Actions**

The operator shall review and revise as necessary the selection, design, installation, and implementation of the control measures and BMPs as a result of the following events:

1. An unauthorized discharge or release of pollutants from the facility;
2. As a result of an inspection or evaluation by the Stormwater Pollution Prevention Team, or any federal, state, or local authority or their representative who determines that the control measures and/or BMPs are not being properly operated or maintained or are not achieving compliance with the conditions of this permit; or
3. Changes at the facility which significantly alter the nature of pollutants discharged in stormwater or significantly increases the quantity of pollutants discharged

As soon as practicable after the discovery of any of the preceding conditions the Stormwater Pollution Prevention Team shall document in an initial Corrective Action Report the following: (1) identification of the condition triggering the need for corrective action review, (2) description of the problem identified, and (3) date the problem was identified. This report does not relieve the operator of the responsibility to report a spill or effluent violations as required by Section 6.12 of this permit.

As soon as practicable after the discovery of any of the preceding conditions the Stormwater Pollution Prevention Team shall document in a comprehensive Correct Action Report the following: (1) a summary of corrective actions taken or to be taken, (2) date corrective actions were or are to be initiated, (3) date corrective actions were completed or expected to be completed, (4) summary of any necessary SWPPP modifications, (5) date SWPPP modifications are to be completed.

**SECTION 4**  
**ADDITIONAL REQUIREMENTS**

#### **4. ADDITIONAL REQUIREMENTS**

##### **4.1. Non-Stormwater Discharges**

The following non-stormwater discharges are authorized by this permit. All other non-stormwater discharges shall be eliminated by the operator or the operator shall obtain an individual KPDES permit or appropriate alternate KPDES general permit:

- 1) Fire-fighting activities;
- 2) Fire hydrant flushings;
- 3) Potable water, including water line flushings;
- 4) Uncontaminated condensate from air conditioners, coolers, and other compressors and from outside storage of refrigerated gases or liquids;
- 5) Irrigation drainage;
- 6) Landscape watering provided all pesticides, herbicides, and fertilizers have been applied in accordance with the approved labeling;
- 7) Pavement wash waters where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed);
- 8) Routine external building washdown that does not use detergents;
- 9) Uncontaminated ground water or spring water;
- 10) Foundation or footing drains where flows are not contaminated with process materials; and
- 11) Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of the facility, but not intentional discharges from cooling tower.

##### **4.2. New or Expanded Discharges**

New or expanded discharges are those discharges that result in new pollutant loadings or expanded existing pollutant loadings to waters of the Commonwealth. To satisfy the antidegradation requirements and implementation procedures in 401 KAR 10:029 and 401 KAR 10:030 the operator shall implement control measures and BMPs to meet enhanced non-numeric effluent limitations for these discharges. The operator shall document in the SWPPP the selected enhanced control measures and BMPs and justification of their use. Enhanced control measures and BMPs shall be sufficient to protect surface waters of the commonwealth for their designated uses. Examples of acceptable control measures and BMPs include, but are not limited to, the following:

- 1) Selection, design, installation, implementation, and maintenance of control measures and BMPs to effectively control storm events up to and including a 2-year, 24-hour event.
- 2) Maintain a 25-foot natural vegetative buffer between the edge of the receiving water and any structure or activity that results in new or expanded discharges.
- 3) Maintain a 50-foot natural vegetative buffer between the edge of the receiving water and any structure or activity that results in new or expanded discharges for receiving waters designated as a Coldwater Aquatic Habitat or Outstanding State Resource Water, categorized as an Outstanding National Resource Water or Exceptional Water, or has been listed in the most recently approved Integrated Water Quality 305(b) Report to Congress as an Impaired Water for which an approved TMDL has not been developed for pollutants of concern that may be discharged from the facility.
- 4) Removal of wastes, garbage, or floatable debris from exposed areas on a routine basis unless the operator places such materials in containers that are protected by a storm resistant covering or within secondary containment structures.
- 5) Inspections of all equipment and systems for leaks, spills, other releases of pollutants and structural control measures for capacity and integrity. Repairs or replacement of any faulty equipment or systems, the removal of sediment, cleaning, or performance of repairs of structural control measures shall be affected within 24 hours of discovery of the condition unless the operator can demonstrate there are extenuating circumstances.
- 6) Minimization of the potential for leaks, spills, and other releases. Where possible, the operator should determine the level of risk of leaks, spills, and other releases for all primary and ancillary

activities at a facility and develop procedures and preventative measures that result in the greatest reduction or elimination of the risk.

- 7) Utilize storm resistant covers to reduce areas of exposure (e.g. enclosing storage areas, transfer points, etc.).
- 8) Implementation of other adequately protective alternate practices.



#### 4.3. Summary of Exclusions

Facilities meeting any of the following criteria are not eligible for coverage under KYR00:

- 1) those that have obtained or are required to obtain an individual KPDES permit for discharge of non-stormwater wastewaters;
- 2) those that are subject to a promulgated national effluent guideline specific to stormwater discharges;
- 3) those that propose a new or expanded discharge of pollutants of concern to a water body that is categorized as Impaired for those pollutants of concern and for which an approved TMDL has been developed for those pollutants of concern; or
- 4) those that KDOW has determined are more appropriately addressed by an individual KPDES permit or alternate KPDES general permit.

#### 4.4. Schedule of Compliance

The permittee shall attain compliance with all requirements of this permit on the effective date of this permit unless otherwise stated.

#### 4.5. Other Permits

This permit has been issued under the provisions of KRS Chapter 224 and regulations promulgated pursuant thereto. Issuance of this permit does not relieve the permittee from the responsibility of obtaining any other permits or licenses required by this Cabinet and other state, federal, and local agencies.

#### 4.6. Sufficiently Sensitive Analytical Methods

Analytical methods utilized to demonstrate compliance with the effluent limitations established in this permit shall be sufficiently sensitive to detect pollutant levels at or below the required effluent limit, i.e. the Method Detection Limit (MDL) shall be at or below the effluent limit. In that instance where an EPA-approved method does not exist that has a MDL at or below the established effluent limitation, the permittee shall: (1) use the method specified in the permit; or (2) the EPA-approved method with a MDL that is nearest to the established effluent limit.

#### 4.7. Antidegradation

For those discharges subject to the provisions of 401 KAR 10:030, Section 1(3)(b)5, the permittee shall install, operate, and maintain wastewater treatment facilities consistent with those required by Section 4.2 for new or expanded discharges.

#### 4.8. Additional Conditions Applicable to Existing Manufacturing, Commercial, Mining and Silvicultural Discharges

The permittee shall notify the Director as soon as they know or have reason to believe that toxic pollutants not limited in the permit have been or shall be discharged in excess of the highest of the following notification levels:

POLLUTANT	ROUTINE/FREQUENT BASIS	NON-ROUTINE/INFREQUENT BASIS
Any Toxic Pollutant	100 µg/l or level established by the Director	500 µg/l or level established by the Director
Acrolein	200 µg/l	500 µg/l or level established by the Director
Acrylonitrile	200 µg/l	500 µg/l or level established by the Director
2,4-dinitrophenol	500 µg/l	500 µg/l or level established by the Director
2-methyl-4,6-dinitrophenol	500 µg/l	500 µg/l or level established by the Director
Antimony	1 mg/l	1 mg/l

POLLUTANT	ROUTINE/FREQUENT BASIS	NON-ROUTINE/INFREQUENT BASIS
Pollutant reported in permit application	Five (5) times the maximum concentration value	Ten (10) times the maximum concentration value

#### 4.9. Reporting of Monitoring Results

Within one (1) year of the effective date of this permit or date of coverage, whichever is later, the permittee shall begin reporting monitoring results obtained during each monitoring period using KDOW's designed electronic reporting method. Electronic reporting of DMR data shall be completed by the permittee using a KDOW-approved reporting method. The electronic reporting of DMR data shall be submitted July 28<sup>th</sup> and January 28<sup>th</sup> of each year. The permittee may contact the KDOW Permit Support Section at (502)564-3410 to obtain information about these reporting method(s). Monitoring results obtained by the permittee during the one (1) year interim period allowed for migration to KDOW's electronic reporting method shall be kept on site and provided upon request to any representative of KDOW.

#### 4.10. Reopener Clause

This permit shall be modified, or alternatively revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved in accordance with 401 KAR 5:050 through 5:080, if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
2. Controls any pollutant not limited in the permit.

This permit may be reopened to implement the findings of a reasonable potential analysis performed by KDOW.

The permit as modified or reissued under this paragraph shall also contain any other requirements of KRS Chapter 224 when applicable.

#### 4.11. Administrative Continuation

In the event the permit expires prior to reissuance by KDOW the conditions and requirements of this version of KYR00 shall continue in effect until KDOW reissues the permit. However, new or expanded coverages cannot be authorized until the permit is reissued. Facilities that obtain individual permits during such periods may apply for coverage under the general permit by filing an eNOI-KYR00.

#### 4.12. Outfall Signage

For discharges to the Ohio River the permittee shall comply with the permanent marker requirements of Part V, Section A 3 of ORSANCO's Pollution Control Standards.

For discharges to receiving waters other than the Ohio River the permittee may place and maintain a permanent marker at each of the monitoring locations to better document and clarify these locations.

#### 4.13. Discharge and Monitoring Point Accessibility

As stated in Section 6.9, the permittee shall allow authorized agency representatives to inspect the facility and collect samples to determine compliance. In order for such monitoring to be conducted either by the permittee or authorized agency personnel all monitoring and discharge points required by this permit shall be readily and safely accessible.

**SECTION 5**  
**NOI REQUIREMENTS**  
**AND**  
**CONDITIONAL EXCLUSION FOR NO EXPOSURE**

## **5. NOI REQUIREMENTS AND CONDITIONAL EXCLUSION FOR NO EXPOSURE**

### **5.1. Notice of Intent (NOI)**

Operators seeking to obtain a new coverage, to modify an existing coverage, or to renew an existing coverage shall use KDOW's electronic web based eNOI-KYR00, available on KDEP's forms library site at: <http://dep.ky.gov/formslibrary/Pages/default.aspx>. KDOW shall not process any NOI that is incomplete, inaccurate, or in an incorrect format.

#### **5.1.1. NOI Contents**

Electronic form eNOI-KYR00 is comprised of the following sections: (1) Purpose of the NOI, (2) Facility Operator Information, (3) Facility/Site Location Information, (4) Facility/Site Activity Information, (5) Outfall Information, (6), NOI Preparer Information (7) Attachments, and (8) Certification.

Facilities which have applied for individual KPDES stormwater discharge permits (IPs) between 10-1-2007 and the effective date of this permit may be eligible for coverage under this permit, assuming they are not excluded under the Summary of Exclusions. If a facility has received an IP in this interim period the Operator should submit the NOI and indicate that a general permit was not available when operation began. If a facility has applied for an IP but KDOW has not yet issued the IP, the Operator should submit an NOI.

#### **5.1.2. NOI Submission Deadlines**

Operators seeking initial coverage for a new facility shall electronically submit the eNOI-KYR00 a minimum of 15 days prior to commencement of discharge.

Operators seeking initial coverage for an existing facility that has commenced discharge shall electronically submit the eNOI-KYR00 within 15 days after the effective date of KYR00.

Operators seeking modification of an existing coverage to address facility modifications shall electronically submit an updated eNOI-KYR00 a minimum of 15 days prior to the modification of the facility.

For existing coverage granted prior to September 30, 2007 the operator shall electronically submit an updated eNOI-KYR00 within 90 days of the effective date of the permit to renew the coverage. Failure to submit the updated eNOI-KYR00 within the specified timeframe shall result in the termination of coverage.

### **5.2. Conditional Exclusion for No Exposure**

Operators seeking this conditional exclusion are required to submit an electronic "No Exposure Certification" using the eNoExposure form on KDEP's forms library site at: <http://dep.ky.gov/formslibrary/Pages/default.aspx>. This certification is time limited and must be resubmitted upon each reissuance of the KYR00 Other Facilities Stormwater General Permit in order to continue the exclusion for the next permit term.

**SECTION 6**  
**STANDARD CONDITIONS**

## **6. STANDARD CONDITIONS**

### **6.1. Duty to Comply**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of KRS Chapter 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. Any person who violates applicable statutes or who fails to perform any duty imposed, or who violates any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty as provided at KRS 224.99.010.

### **6.2. Duty to Reapply**

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for a new permit.

### **6.3. Need to Halt or Reduce Activity Not a Defense**

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

### **6.4. Duty to Mitigate**

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

### **6.5. Proper Operation and Maintenance**

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

### **6.6. Permit Actions**

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

### **6.7. Property Rights**

This permit does not convey any property rights of any sort, or any exclusive privilege.

### **6.8. Duty to Provide Information**

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Director upon request, copies of records required to be kept by this permit.

### **6.9. Inspection and Entry**

The permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Director), upon presentation of credentials and other documents as may be required by law, to:

- (1) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

- (2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- (3) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- (4) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

#### **6.10. Monitoring and Records**

(1) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(2) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five (5) years (or longer as required by 401 KAR 5:065, Section 2(10) [40 CFR 503]), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.

(3) Records of monitoring information shall include:

- (i) The date, location, and time of sampling or measurements;
- (ii) The individual(s) who performed the sampling or measurements;
- (iii) The date(s) analyses were performed;
- (iv) The individual(s) who performed the analyses;
- (v) The analytical techniques or methods used; and
- (vi) The results of such analyses.

(4) Monitoring must be conducted according to test procedures approved under 401 KAR 5:065 Section 2(8) [40 CFR 136] unless another method is required under 401 KAR 5:065, Section 2(9) or (10) [40 CFR subchapters N or O].

(5) KRS 224.99-010 provides that any person who knowingly violates KRS 224.70-110 or other enumerated statutes, or who knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall be guilty of a Class D felony and, upon conviction, shall be punished by a fine of not more than \$25,000, or by imprisonment for not more than one (1) year, or both. Each day upon which a violation occurs shall constitute a separate violation.

#### **6.11. Signatory Requirement**

(1) All applications, reports, or information submitted to the Director shall be signed and certified pursuant to 401 KAR 5:060, Section 4 [40 CFR 122.22].

(2) KRS 224.99-010 provides that any person who knowingly provides false information in any document filed or required to be maintained under KRS Chapter 224 shall be guilty of a Class D felony and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars (\$25,000), or by imprisonment, or by fine and imprisonment, for each separate violation. Each day upon which a violation occurs shall constitute a separate violation

#### **6.12. Reporting Requirements**

##### **6.12.1. Planned Changes**

The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- (i) The alteration or addition to a permitted facility may meet one (1) of the criteria for determining whether a facility is a new source in KRS 224.16-050 [40 CFR 122.29(b)]; or
- (ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under KRS 224.16-050 [40 CFR 122.42(a)(1)].
- (iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

#### **6.12.2. Anticipated Noncompliance**

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

#### **6.12.3. Transfers**

This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under KRS 224 [CWA; see 40 CFR 122.61; in some cases, modification or revocation and reissuance is mandatory].

#### **6.12.4. Monitoring Reports**

Monitoring results shall be reported at the intervals specified in Section 4.9 of this permit.

- (i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices.
- (ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 401 KAR 5:065, Section 2(8) [40 CFR 136], or another method required for an industry-specific waste stream under 401 KAR 5:065, Section 2(9) or (10) [40 CFR subchapters N or O], the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director.
- (iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.

#### **6.12.5. Compliance Schedules**

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than fourteen (14) days following each schedule date.

#### **6.12.6. Twenty-four-Hour Reporting**

(i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within twenty-four (24) hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain: a description of the noncompliance and its cause, the period of noncompliance (including exact dates and times), and if the noncompliance has not been corrected, the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(ii) The following shall be included as information which must be reported within twenty-four (24) hours under this paragraph.

- (A) Any unanticipated bypass which exceeds any effluent limitation in the permit.



(B) Any upset which exceeds any effluent limitation in the permit.

(C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within twenty-four (24) hours.

(iii) The Director may waive the written report on a case-by-case basis for reports under paragraph (6)(ii) of this section if the oral report has been received within twenty-four (24) hours.

#### **6.12.7. Other Noncompliance**

The permittee shall report all instances of noncompliance not reported under Sections 6.12.1, 6.12.4, 6.12.5, and 6.12.6, at the time monitoring reports are submitted. The reports shall contain the information listed in Section 6.12.6.

#### **6.12.8. Other Information**

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

### **6.13. Bypass**

#### **6.13.1. Definitions**

(i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

(ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

#### **6.13.2. Bypass Not Exceeding Limitations**

The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but it must be for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Section 6.13.1.

#### **6.13.3. Notice**

(i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass.

(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Section 6.12.6.

#### **6.13.4. Prohibition of Bypass**

(i) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under Section 6.13.3.

(ii) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three (3) conditions listed above in Section 6.13.3.

**6.13.5. Upset****6.13.5.1.1.1. Definition**

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

**6.13.6. Effect of an Upset**

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Section 6.13.7 are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

**6.13.7. Conditions Necessary for a Demonstration of Upset**

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (i) An upset occurred and that the permittee can identify the cause(s) of the upset;
- (ii) The permitted facility was at the time being properly operated; and
- (iii) The permittee submitted notice of the upset as required in Section 6.12.6; and
- (iv) The permittee complied with any remedial measures required under Section 6.4.

**6.13.8. Burden of Proof**

In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.



STEVEN L. BESHEAR  
GOVERNOR

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
DIVISION OF WATER  
200 FAIR OAKS LANE  
FRANKFORT, KENTUCKY 40601  
[www.kentucky.gov](http://www.kentucky.gov)

LEONARD K. PETERS  
SECRETARY

May 1, 2013

Response to Public Comments  
KPDES No.: KYR000000  
(KYR00)  
AI No.: 35050  
All Counties, Kentucky

Dear Commenter:

The comments concerning the above-referenced final permit have been reviewed and responses prepared in accordance with Kentucky Pollutant Discharge Elimination System (KPDES) regulation 401 KAR 5:075, Section 12. The comments have been briefly described below and responses to those comments follow:

**GENERAL COMMENT:**

A number of commenters recommended wording changes for clarification of KYR00 requirements, correction of typographical errors, etc.

**RESPONSE:**

The Division of Water (DOW) reviewed and considered these comments and made those changes DOW deemed appropriate.

**SPECIFIC COMMENTS:**

**COMMENT 1:** Representatives of the wood products industry expressed concern that KYR00 excludes from coverage facilities subject to 40 CFR 429 Timber Products Point Source Category, Subpart I Wet Storage Subcategory. They cite the cost of obtaining an individual KPDES permit as being prohibitive and have indirectly requested the development of an alternate general permit to address these types of facilities.

**RESPONSE 1:** DOW will consider developing a general permit for facilities subject to 40 CFR 429 Subpart I.

**COMMENT 2:** One commenter recommended removal of flow measurement from the permit due to the belief that DOW does not have the authority to limit flow.

**RESPONSE 2:** The fact sheet for KYR00 cites the state and federal regulations that require flow to be included in all KPDES permits.

**COMMENT 3:** A number of commenters recommended that exterior vehicle washwater be added to the list of allowable non-stormwater discharges covered by the permit.

**RESPONSE 3:** The list of allowable non-stormwater discharges in Section 4.1 of KYR00 is consistent with the same list in EPA's Multi-Sector General Permit (MSGP). Vehicle washwater, like equipment washwater, is considered process wastewater due to direct contact with raw materials, intermediate products, finished products, byproducts, or waste product. Therefore the recommendation cannot be incorporated into the permit.

**COMMENT 4:** One commenter questioned the necessity of including a summarization of the stormwater discharge sampling data collected during the prior permit term within the Summary of Potential Pollutant Sources Section of the Stormwater Pollution Prevention Plan (SWPPP).

**RESPONSE 4:** The inclusion of a summary of the stormwater discharge sampling data collected during the previous permit serves to more accurately document the concentration of pollutants and their potential sources at the facility.

**COMMENT 5:** A number of commenters questioned the necessity and the manner in which the daily precipitation log is to be maintained.

**RESPONSE 5:** The purpose of the log is to correlate the occurrence of discharges with precipitation events. The permit requires the permittee to maintain a daily precipitation log; however it does not specify the manner or frequency of preparation of such a log. A definition for the log can be found in the fact sheet.

**COMMENT 6:** Section 4.3 of the final permit lists types of facilities excluded from coverage. Commenter would like item 4 removed or modified to only include objective criteria.

**RESPONSE 6:** 401 KAR 5:055 Section 3(4) allows DOW to determine whether or not a stormwater discharge will require an Individual Permit. The section will not be modified to remove item 4.

**COMMENT 7:** Commenter would like the permit to clearly state that a permittee may be eligible for coverage under the general permit even if they have an individual permit, if they are otherwise qualified.

**RESPONSE 7:** DOW clarified eligibility in the permit and fact sheet.

**COMMENT 8:** Section 4.4 of the permit states that the permittee shall attain compliance with all requirements of this permit on the effective date of this permit unless otherwise stated. Commenters would like a compliance period for facilities who receive coverage by this general permit. One commenter would like 6 months while another would like 1 year.

**RESPONSE 8:** The permit states that facilities which need to make modifications and upgrade their SWPPP have 90 days to submit their Notice of Intent and 6 months to update their SWPPP. Compliance schedules are not available for new facilities as these facilities have ample opportunity to develop adequate control measures prior to commencement of discharge.

**COMMENT 9:** Commenter would like clarification on Section 4.8 of the permit, which addresses additional conditions for Existing Manufacturing, Commercial, Mining and Silvicultural discharges. Another commenter questions whether or not the

conditions in Section 4.8, which come from 40 CFR 122.42, apply to stormwater and requests the entire section be deleted from the permit.

**RESPONSE 9:** DOW considered the comments but believed the section was sufficient as written. 40 CFR 122.42 applies to all NPDES permits within the categories listed in that part. 40 CFR 122.42(a) identifies different types of facilities, not different types of discharges. 40 CFR 122.42(f) is specifically for stormwater, but (f) does not negate (a).

**COMMENT 10:** Section 4.12 of the permit concerns outfall signage. Commenter requests the section be deleted from the permit.

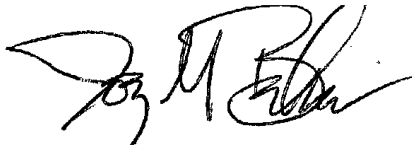
**RESPONSE 10:** The permanent marker requirement can be found in ORSANCO's Pollution Control Standards document in Section V Part A 3. The rest of Section 4.12 of the final permit is a recommendation and not a requirement; therefore, it will remain in the permit. The suggestion is meant to help the permittee. Markers would provide clarification on outfall locations to the permittee, inspectors, and other representatives of the Director.

Any person aggrieved by the issuance of a permit final decision may demand a hearing pursuant to KRS 224.10-420(2) within thirty (30) days from the date of the issuance of this letter. Any demand for a hearing on the permit shall be filed in accordance with the procedures specified in KRS 224.10-420, 224.10-440, 224.10-470, and the regulations promulgated thereto. The request for hearing should be submitted in writing to the Energy and Environment Cabinet, Office of Administrative Hearings, 35-36 Fountain Place, Frankfort, Kentucky 40601 and the Commonwealth of Kentucky, Energy and Environment Cabinet, Division of Water, 200 Fair Oaks Lane, Frankfort, Kentucky 40601. For your record keeping purposes, it is recommended that these requests be sent by certified mail. The written request must conform to the appropriate statutes referenced above.

If you have any questions regarding these responses, please contact Cassie Campbell, Surface Water Permits Branch, at (502) 564-3410, extension 4974.

Further information on procedures and legal matters pertaining to the hearing request may be obtained by contacting the Office of Administrative Hearings at (502) 564-7312.

Sincerely,



Sandra L. Gruzesky, Director  
Division of Water